

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 12470 of the Citizens Association of Georgetown, pursuant to Sections 8102 and 8206 of the Zoning Regulations, from the decision of the Zoning Administrator that the rebuilding of a non-conforming use and non-conforming structure does not exceed 75 per cent of the original cost, with the affected premises in the R-3 District at 2803 Olive Street, N.W., (Square 1213, Lot 174).

HEARING DATE: September 21, 1977

DECISION DATE: October 11, 1977

DISPOSITION: The Board UPHELD the decision of the Zoning Administrator by a vote of 5-0 (William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris, John G. Parsons and Leonard L. McCants)

FINAL DATE OF ORDER: November 21, 1977

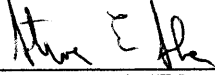
O R D E R

Upon consideration of Appellant's Motion for Reconsideration dated December 2, 1977, the Board finds that the motion fails to state an acceptable basis of error on the part of the Board to support a Motion for Reconsideration. It is therefore ORDERED that the Motion for Reconsideration is DENIED.

DECISION DATE: January 4, 1978

VOTE: 5-0 (Chloethiel Woodard Smith, Charles R. Norris, William F. McIntosh, John G. Parsons, by proxy and Leonard L. McCants)

ATTESTED By:

  
STEVEN E. SHER

Executive Director

FINAL DATE OF ORDER: 12 JAN 1978

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
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Appeal No. 12470 of the Citizens Association of Georgetown, pursuant to Sections 8102 and 8206 of the Zoning Regulations, from the decision of the Zoning Administrator that the rebuilding of a non-conforming use and non-conforming structure does not exceed 75 per cent of the original cost, with the affected premises in the R-3 District at 2803 Olive Street, N. W., (Square 1213, Lot 174) .

HEARING DATE: September 21, 1977  
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FINDINGS OF FACT:

1. The subject property is located at 2803 Olive Street, N. W. and is in an R-3 District.
2. The subject lot contains 896.68 square feet and is improved with a two-story row dwelling. The building was erected in 1888 and some time afterwards a rear addition was built.
3. The building has been reconstructed. It has been changed from a non-conforming use to a conforming use, a single family residence.
4. This appeal was filed on June 27, 1977, by the Citizens Association of Georgetown contesting the decision of Mr. James J. Fahey, the Zoning Administrator, to the effect that the rebuilding of a non-conforming use and non-conforming structure (flat, no Certificate of Occupancy) to a single family house does not exceed seventy-five per cent of the original cost.
5. On May 31, 1977 building permit No. B251519 was issued for interior renovations and a rear wall change to a single family dwelling. On June 8, 1977 a second building permit was issued, No. B251832 to replace the west wall which was in danger of collapsing. Also, in order to structurally retain the front wall of the building the floor joists and roof framing had to be replaced.
6. In view of the aforementioned renovations and reconstruction, Mr. Fahey advised the contractor that he would instruct the building inspector to stop all work

once the structure was in a safe condition until the owner could show proof that he was in compliance with Sub-section 7108.2 of the D. C. Zoning Regulations.

7. Sub-section 7108.2 of the Zoning Regulations states that "A non-conforming structure which is destroyed or damaged in any manner from any cause whatsoever, to the extent that the cost of restoration to the condition of the structure before the occurrence shall exceed 75% of the cost of reconstructing the entire structure shall not be restored.... In the event such damage is less than 75% of the cost of reconstructing the entire structure, such structure may be repaired or restored....".

8. The appeal is incorrectly stated in that the appellant speaks of a "non-conforming use". The proposed use would be as a single family dwelling, which is a use permitted as a matter-of-right in an R-3 District.

9. Mr. Fahey determined that the reconstruction costs would be \$50.00 per square foot; that a 100% reconstruction of 896.68 square feet would cost \$44,434.00 and that a 75% of reconstruction would amount to \$33,625.50. The construction budget was \$31,794 which was under 75%.

10. In arriving at the construction budget figure of \$31,794 Mr. Fahey reviewed the following items:

- a. contractor's contract with owner of subject property.
- b. construction budget of contractor.
- c. real estate appraisal of Wallace Real Estate, Inc. and appraiser's resume.
- d. contractor's compulation of the cost to restore the subject building to its original condition.
- e. statement of Zarin Electric Company.
- f. statement of Horn Plumbing and Heating Company.

- g. statement of changes made by the Zoning Administrator's office on the computation of costs submitted by contractor.

11. The appellant stated that the subject premises was not reconstructed but rebuilt and that the construction budget figures were too low.

12. The appellant further stated that the Zoning Administrator had permitted a subdivision of substandard lots into more substandard lots. The Chairman ruled that this was not an issue of the appeal and was not properly before the Board.

CONCLUSIONS OF LAW AND OPINION:

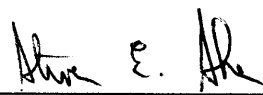
Based on the record the Board is of the opinion that the evidence reflects that the cost of reconstruction of the subject premises to the condition of the structure before its destruction or damage does not exceed seventy-five per cent of the cost of reconstructing the entire structure. The Board concludes that the appellant has not met the required burden of proof, and has presented no material to support the appeal. The Board concludes that requirements of Sub-section 7108.2 of the Zoning Regulations have been met, and that the decision of the Zoning Administrator was a correct decision. Accordingly, it is ORDERED that the decision of the Zoning Administrator is UPHeld and the appeal is DENIED.

VOTE:

5-0 (William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris, John G. Parsons and Leonard L. McCants to uphold the Zoning Administrator).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:

  
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STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER:

21 NOV 1977